

**STATE OF CALIFORNIA  
BOARD OF CORRECTIONS**

**JAIL OVERCROWDING MANAGEMENT HANDBOOK**

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# **STATE OF CALIFORNIA**

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## PREFACE

The State of California Board of Corrections developed this Jail Overcrowding Management Handbook to provide assistance to county jail administrators in coping with overcrowded detention systems. The information presented in this handbook was developed from several sources:

- An extensive literature search on the subject of jail overcrowding and jail management;
- A review of case law pertaining to inmate litigation in response to general and specific jail conditions;
- A survey of California jail administrators seeking data on the current status of jails, techniques used in responding to overcrowded conditions, and programs offering alternatives to incarceration;
- Telephone interviews with county jail administrators and Board of Corrections' staff; and
- A gathering of materials from states and counties around the country pertaining to jail overcrowding and jail management.

The purpose of this handbook is to provide practical assistance to jail administrators in responding to overcrowded conditions and preventing inmate litigation based upon overcrowding. Information in this handbook is not presented in the style of a research paper. No attempt was made to exhaustively categorize the options available to detention managers so that all counties utilizing an approach or solution would be recognized; instead, we settled for a reasonable cross section of the counties who had made particular choices.

Section 1 presents a brief overview of the structure and format of the handbook. Section 2 includes an introduction of the jail conditions cited in inmate litigation along with specific remedies and responses to these conditions, implemented by jails throughout California. In Section 3, problems and strategies for addressing the problems are presented in fourteen key areas of jail management and operations, all of which are sensitive to jail overcrowding. Section 4 emphasizes the numerous strategies that can be taken within the criminal justice system to address jail overcrowding problems. These include the use of multi agency committees to examine the specific use of current programs and procedures offering potential alternatives to incarceration. The final section of the report stresses the importance of the jail administrators relative to a number of management strategies, as well as the involvement of other criminal justice agencies in dealing with overcrowded jails.

The Board of Corrections sincerely hopes that the information in this handbook will have practical value for jail administrators throughout California. Further information on this subject can be obtained by contacting staff at the Board of Corrections:

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## **ACKNOWLEDGEMENTS**

The Board of Corrections is again indebted to the many administrators, managers and employees of local detention facilities in the state, who shared their problems, solutions, ideas and insights with us for this publication. It is the hope of the Board that the task of managing a local detention facility will be made easier with this document. Special thanks are due to the advisory committee:

- Chief Deputy Assistant Sheriff Larry Ard, Contra Costa Sheriff's Department
- Chief Jim Painter, Los Angeles County Sheriff's Department; Member, California Board of Corrections
- Captain Frank Wallace, Sacramento County Sheriff's Department

The project was directed by Jerome R. Bush of Evaluation, Management, and Training Associates (EMT), Inc., a Sacramento-based consulting firm specializing in criminal justice research. Mr. Bush was involved in all phases of the project. He was responsible for developing the survey instrument used in the study, conducting the statewide survey of jail administrators, and preparing the handbook. In conducting the telephone survey he was assisted by Laurel Varnon and Joel L. Phillips. Charles Doolittle edited the final version of the handbook and incorporated the suggestions and recommendations of the project monitor, Mr. Neil Zinn, and the staff at the Board of Corrections. Nancy Monroe deserves credit for preparing and typing the final version of the handbook.

Lastly, we wish to thank the many jail administrators throughout the State of California who gave so freely of their time to respond to our lengthy survey questionnaire. We very much appreciate your time and effort and hope you feel this handbook justifies your contribution.

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## SECTION 1

### INTRODUCTION

Jail - the "social agency" of last resort - is saddled with a mixture of one-time delinquents, small-time losers, violent criminals, and social misfits. It is an amalgamation that would throw even the most capable manager of human affairs into a virtual frenzy.'

The problems facing the jail administrator are complex and frustrating, even without overcrowding. With overcrowding, everyday problems become crises, and jurisdictions administering jails become vulnerable to legal challenges that may result in court mandated remedies.

Since jail administrators have little control over the two primary determinants of jail population -- number of admissions and length of stay -- they are forced to resbond to the demands placed upon the jail system as best they can. The jail manager has immediate responsibility in dealing with an overcrowded jail situation that cannot wait until potential policies affecting the larger system on sources of overcrowding are determined. In some cases, this response eventually requires planning for and constructing a new facility. Whether or not a new facility is on the horizon, it is imperative that jail administrators use a broad array of approaches to avoid or respond to overcrowding. This handbook offers ideas and suggestions to help jail managers cope with jail overcrowding creatively and effectively.

The first job in coping with jail overcrowding is to understand and define the problem. Jail overcrowding is quite commonly a legal problem, always a management problem, and, in the end, a system's problem.

#### THE LEGAL PROBLEM (Section 2)

Inmate litigation arising from specific or 'general jail overcrowding conditions is an ever increasing phenomenon in this country, as many California counties can attest. Court orders resulting from inmate litigation can be the most urgent motivation for local authorities to manage jail populations better. In some jurisdictions, a legal requirement appears to be the only way to create the political will to manage jail populations effectively. Once under court order, jail administrators and all other key participants in

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<sup>1</sup> **Jails: Intergovernmental Dimensions of a Local Problem**, Advisory Commission on Intergovernmental Relations, Washington, D.C.: May 1984, p. 10.

the local criminal justice system must mobilize in response. The field must learn from the current body of litigation. In the event of overcrowding, the jail manager must initiate an aggressive program of self inspection and public relations to forestall suits and secure support for correction action.

Local authorities would do well to mobilize against overcrowded conditions before court orders mandate actions which may be disruptive, fail to consider available staffing, on-going operations, or the budget.

Section 2, Jail Overcrowding, of this handbook looks briefly at the legal problem of jail overcrowding by itemizing the conditions recognized by courts in inmate litigation and offering a variety of remedies that may be applied to correct those conditions,

### THE MANAGEMENT PROBLEM (Section 3)

Whether or not the jail is under, a consent decree or court orders, jail overcrowding aggravates old jail management problems and creates new ones. From directly impacted areas such as inmate housing and classification/segregation, to more indirectly impacted areas such as visitation and inmate programs, virtually all administrative and operational dimensions of jails are affected by overcrowding.

Section 3, Managing the Overcrowded Jail, of this handbook approaches the broad subject of management problems and solutions in jail overcrowding by addressing fourteen key inmate management areas. Although management problems and remedial strategies associated with jail overcrowding cannot be exhaustively listed in a handbook, Section 3 offers a starting place for jail administrators seeking to manage their particular problems better.

### SYSTEM'S PROBLEM (Section 4)

Jail administrators simply cannot solve jail overcrowding problems alone. Because jail overcrowding is truly a criminal justice system problem, it takes the entire system to address it meaningfully.

To manage jail populations from a system perspective, the jail manager must be part of a process or approach that draws upon all involved agencies. For this reason, the technique of forming a multi-agency committee -- a Jail Capacity Management Board, or Jail Capacity Oversight Committee -- is pursued in Section 4, System Solutions for a System's Problem.



One of the best ways to reduce jail populations is to aggressively make use of alternatives to incarceration at every point in the criminal justice process where jail incarceration is traditionally used. Some programs in this regard are controlled primarily by the jail, but many are found in and depend upon other criminal justice system entities -- field law enforcement, prosecution, and courts. Section 4 examines programs offering alternatives to incarceration and procedures for accelerating case processing. Descriptions of various program types are presented with some indications of the extent to which the program type is used in California and the level of impact it is having on jail populations.

## SUMMARY

The problems of jail management have long been recognized, and it is commonly understood that, to a large degree, our society allows these problems to linger because jails are consciously placed near the bottom of the priority list for public resource attention. The pressure within counties to relieve jail overcrowding has become intense because of litigation, yet often just as intense are the fiscal constraints under which counties must operate. The tension created by jail overcrowding and budgetary limitations produces one sure result: a requirement that jail administrators do everything they can in managing with the resources available.

This handbook for jail administrators addresses the legal problems, inmate management problems, and systemwide problems that contribute to jail overcrowding. The intention of this handbook is to offer some discussion of the problems and issues and to suggest some specific action strategies for those involved in the jail overcrowding problem. Additional resource material on jail overcrowding may be found in the annotated bibliography in Appendix A. This material contains references to the evaluation, planning and implementation of pretrial and sentencing alternatives, as well as programs to improve case processing efficiency.

## SECTION 2

### JAIL OVERCROWDING: THE LEGAL PERSPECTIVE

Though jails seemingly have always been under fire by humanitarian, fiscal, and managerial reformers, it is only recently that they have come under constitutional scrutiny. That scrutiny, along with increasingly beleaguered local budgets and a new hard-liner public and official attitude toward criminals and the accused, have given even the age-old issues a current urgency.<sup>2</sup>

Inmate litigation against jails is a symptom of the adverse conditions produced by overcrowding. The precedent for such litigation against jails for general conditions associated with overcrowding was established in 1976 in California by an inmate of the Yuba County jail who filed suit against the sheriff (*Hedrich v. Grant*) in the U.S. District Court - Eastern District. Since that time, numerous law suits have been filed by inmates about general conditions resulting from overcrowding.

Of the California litigation collected by the Board of Corrections, most alleges that the conditions created by overcrowding constitute cruel and unusual punishment and, thereby, violate the inmates' rights under the Eighth Amendment to the Constitution. Some litigation alleges violation of the due process provisions of the Fourteen Amendment during disciplinary proceedings. A few cite violations of the Board of Corrections' Title 15, Subchapter 4: Minimum Standards for Local Detention Facilities. A small number claim violations of the California Constitution: (1) denial of liberty without due process -- Section 7, and (2) conditions that constitute cruel and unusual punishment--Section 17.

Early detection and correction of problem areas may avoid the costs and difficulties associated with inmate litigation. No jail administrator relishes the notion of giving up management control of the jail to the courts. Commonly, court actions emerging from inmate litigation lead to the development of consent decrees, which are agreements entered into by the involved parties and approved by the court. In addition to consent decrees, inmate actions may lead to court's orders. Court orders specify the conditions that must be corrected, the means to be used in correcting the conditions, and an implementation plan for doing so. The remedial measures contained in court orders as well as consent decrees can be, and often are, quite specific.

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<sup>2</sup> Jails: Intergovernmental Dimensions of a Local Problem Advisory Commission on Intergovernmental Relations, Washington, D.C.: May 1, 1984, p. 7.

Consent decrees should be entered into carefully and with advice from counsel experienced in detention litigations. Jurisdictions entering into a consent decree need to remember that the jails problems have not been solved by a consent decree. There is a need to carry out the provisions of the consent decree or risk a contempt action.

The court may appoint a court master. In this capacity, the role of the court master is to assist the court, as a consultant, in developing an acceptable and effective remedial order. A second, and more frequent role played by the court master, is that of policing (enforcing) implementation of a remedial order to ensure that the relief granted by the court, in the face of constitutional violations at the jail, or the conditions of the consent decree, are actually carried out on schedule by the defendants. Such an assignment frequently occurs after the defendants have either refused to carry out the relief granted or shown themselves incapable of carrying it out. The court master may become involved in interpreting the conditions, fact-finding, negotiation, mediation, or providing assistance to the defendant in planning the relief called for by the court.

The remainder of this section, Exhibit 1, presents a summary of the conditions cited in California jail litigation as collected by the Board of Corrections over the past decade. In reading this material, the authors found that there were common themes expressed among these documents that could provide to the jail administrator a means to analyze the relative risk of suit in his own facility. Knowing the pattern that litigation often follows, it would be possible for the administrator to audit his own facility and operations for areas of vulnerability. Further, the jail administrator should keep in mind that by far, most issues coming to the court are related to operations rather than the physical plant itself. Our listing is not meant to be exhaustive, but it is clearly representative of the issues common to California court orders and consent decrees.

## EXHIBIT 1

### CONDITIONS AND REMEDIES FROM INMATE LITIGATION

#### CONDITIONS CITED IN LITIGATION

#### REMEDIES FOUND IN CONSENT DECREES

##### Inmate Housing

- Mattresses on the floor.
- Population exceeds Board-rated capacity.
- No facility may be vacated until a replacement of equal capacity is available
- New main jail of specific capacity to be built and completed by \_\_\_\_\_.
- Housing capacity established for each detention facility and section facility.
- Remodel housing units to accommodate inmate surveillance.
- Provide additional interim beds.
- Install additional showers, toilets for excess population.

##### Visitation

- Denial of visits and use of telephone.
- Visits do not meet Board standards for frequency and duration.
- Visitation is monitored.
- Three visits per week of one hour duration each.
- Telephones to be installed in each dayroom.
- Remodel visitation area to accommodate confidential conversations.

##### Medical Services

- Inadequate medical screening at intake.
- Physical examinations do not detect contagious diseases.
- Inadequate medical staffing.
- Jailers seize prescription medications at booking.
- No procedures for administering medications.
- Non-licensed staff for medications.
- No daily sick calls.
- No daily access to a doctor or nurse.
- Absence of mental health counseling.
- Correctional staff has no rudimentary medical training.
- No private examination room.
- One registered nurse and one licensed vocation nurse to be on duty at all times.
- Hire one part-time psychiatrist and one full-time psychologist.
- Daily sick calls.
- Medical doctor or registered nurse to conduct daily sick calls, prescribe medication, and review medical intake forms.
- Establish written procedures for the storage and administration of medication.
- Basic medical and psychiatric training for correctional officers.
- Semi-annual inspections of medical services.
- Complete medical screening at intake.

##### Food Services

- Food is dirty and cold.
- Food is inadequate in quantity, quality, and nutritional value.
- No provision for special diets (diabetic, religious, prenatal etc.).
- No dining room -- eat in dayroom.
- Kitchen is greasy and filthy.
- Hot, nutritious meals to be served daily.
- 15 minutes for each meal in a dining room.
- Annual steam cleaning of entire kitchen.
- Semi-annual food preparation inspections.

## **CONDITIONS AND REMEDIES FROM INMATE LITIGATION**

### **CONDITIONS CITED IN LITIGATION**

### **REMEDIES FOUND IN CONSENT DECREES**

#### **Inmate Inactivity and Recreation**

- No recreation or exercise.
- Confined to cells 24 hours per day.
- No form of amusement (television, games, books, magazines, or newspapers).
- No dayroom.
- Provide required exercise opportunity.
- Provide for out-of-cell time.

#### **Inmate Programs**

- No educational, vocational, or counseling programs.
- No law library.
- No religious services.
- Inadequate use of alternatives to incarceration by the jail staff -- Citation Release (PC 853.6), Work in Lieu of Jail (PC 4024.2), County Parole (PC 3074), Early Release (PC 4024.1).
- Specific books by title to be included in law library.
- Provide specified law library.
- Institute specified release programs.
- Require sheriff notification of justice agencies of overcrowded conditions.

#### **Classification and Segregation**

- Overcrowding makes classification and segregation impossible.
- No system of classification or segregation.
- Classification procedures are arbitrary and undocumented.
- Violent offenders are not segregated.
- Develop and document an objective classification plan and procedures.
- Establish a classification unit.
- Segregated housing for the mentally ill.

#### **Inmate Disciplinary and Grievance Processes**

- Discipline is arbitrary.
- Punishment without due process.
- Disciplinary and grievance procedures are undocumented.
- No written orientation to jail rules and regulations available to the inmates.
- Develop a jail orientation manual for inmates to include disciplinary and grievance procedures.
- Provide copies/post consent decree for prisoners.
- Disciplinary process to conform to approved standards.
- Post jail rules.

#### **Staffing**

- Staff inadequately trained in crisis intervention.
- Staff cannot accommodate the non-English speaking population.
- Hire ten additional correctional officers for specific assignments.
- Minimum of two correctional officers on each floor at all times.
- Court master to review and approve all staffing changes made to comply with the consent decree.

## CONDITIONS AND REMEDIES FROM INMATE LITIGATION

### CONDITIONS CITED IN LITIGATION

### REMEDIES FOUND IN CONSENT DECREES

#### Inmate Safety

- Insufficient staff to assure inmate safety.
- Repeated acts of violence and assault.
- Suicides.
- Inadequate visual surveillance of housing area.
- Two correctional officers to be on duty at all times maintaining inmate surveillance through continuous rounds.
- Develop and document an inmate surveillance schedule.
- Develop and document a fire safety plan.

#### Sanitation

- Dirty and unsanitary housing area.
- Vermin and insect infestation.
- Walls and floors of all housing units to be steam cleaned and painted.
- Provide for regular pest control services.

#### Facility Maintenance

- No maintenance staff.
- No routine equipment inspections.
- No maintenance plan.
- Defective plumbing (toilets, showers, and sinks).
- Repair specific defective plumbing.
- Replace all showers, toilets, and sinks.

#### Facility Standards

- Inadequate heating, ventilation, and lighting.
- Inadequate fire safety -- exits are obstructed; no evacuation plan, smoke detectors, or sprinklers.
- No emergency fire safety plan.
- Lighting to be provided at specified foot-candles to accommodate reading.
- Fresh air to be provided at \_\_\_\_\_ cubic feet per minute.

#### Hygiene

- Showers once per week.
- No regular clean clothing.
- Inmates to be provided with the opportunity for daily showers.
- Provide for regular clothing exchange.

#### Other Areas

- Mail delayed and censored.
- Excessively high noise levels.
- Legal mail to be opened in the presence of the inmate.
- Mail may be refused but not censored.

## SUMMARY

As the list of court required remedial measures Shown above indicates, consent decrees may stipulate modifications that exceed the Board of Corrections' Minimum Standards for Local Detention Facilities (Title 15). The listing also describes the extent to which the courts, through a consent decree and its enforcing officer (a court master) can become involved in the daily management of the jail.

The reader is referred to Appendix B, Inmate Litigation Against Detention Facilities, for an annotated reference of non-California court cases pertaining to jail overcrowding. It includes some pertinent prison litigations that are relevant to overcrowded jail situation. The Board of Corrections has an extensive archive of key California jail overcrowding cases and jail managers are encouraged to contact the Board concerning these cases.

### SECTION 3

#### MANAGING THE OVERCROWDED JAIL

When the National Institute of Justice asked criminal justice officials to name the most **serious** problem facing the system, police, courts, and correction officials reached a virtually unanimous consensus: prison and jail overcrowding is the number one concern.<sup>3</sup>

Our survey of California jails uncovered a myriad of reasons that jails in this State are increasingly becoming overcrowded. Mandatory jail time sentences, increased crime levels, delays in litigation, and longer sentences all contribute to the problem. Whatever the combination of factors creating the overcrowded conditions, jail administrators can directly alter very few of them. They can, however, employ a variety of strategies in response to pressing population levels.

This section presents problems and solution responses in fourteen key areas of jail management and operations:

- Inmate housing
- Visitation
- Medical services
- Food services
- Inmate activity and recreation
- Inmate programs
- Classification and segregation
- Inmate transportation
- Inmate disciplinary and grievance processes
- Staffing
- Staff and inmate safety
- Inventory storage and control
- Sanitation
- Facility maintenance

In drawing upon the results of our survey of California jails, this material captures much of the experience of many counties that have been faced with chronic overcrowding and often, with court orders to reduce overcrowding and improve conditions. In each of the fourteen management and operations areas, overcrowding has adverse impacts, either worsening existing problems or creating new ones. Jail administrators must find relief from these problems, preferably long-term relief, but commonly short-term relief as well. The solutions presented below are of both varieties. (Those temporary solutions offered that may not meet Minimum Standards for Local Detention Facilities (Title 15) should be

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<sup>3</sup> National Institute of Justice, "Construction Bulletin", May 1987, p. 1.



considered as stop-gap measures.) For further information on the solution ideas cited from specific California counties, please refer to Appendix C which lists contact persons for these counties.

Those counties faced with the prospect of building a new jail should refer to the Corrections Planning Handbook which may be obtained through the Board of Corrections.

## STRATEGIES FOR MANAGING OVERCROWDED JAILS

### INMATE HOUSING

#### THE PROBLEMS . . .

- Inmates sleeping on the floors.
- Need to find and pay for housing in other facilities.
- Need to relax classification criteria.

#### STRATEGIES . . .

1. Add bunks to existing housing units. The most common solution to the problem of floor sleepers is to add bunks (beyond Board-rated capacity) to existing housing; in a few counties (e.g., Riverside County), triple wall-mounted bunks. To reduce costs and shipment delay, Alameda County fabricated their own beds in the welding shop at the Santa Rita detention facility.
2. Convert existing space to housing. The following conversions have been made from their intended purpose to housing: dayrooms, corridors, gyms, storage space, laundry, exercise area, chapel, program space, auditoriums. San Bernardino County converted a large chapel into a 1,000-bed holding facility.
3. Convert/remodel existing facilities for housing. Barns, motels (minimum security), and military barracks have been converted to provide inmate housing. Los Angeles County re-opened three old jails to provide bed space for 2,000 inmates.
4. Use alternate facilities. Transport inmates to other detention facilities with space in the county; board inmates in jails at other counties.
5. Modular space added. Trailers, quonset huts, tents. Santa Clara County has made extensive use of both converted facilities and modular space additions.
6. Add additional housing units to an existing facility.
7. Build a new detention facility. In 38 of the total counties surveyed, new construction was either completed, underway, or contemplated.
8. Request technical assistance from the National Institute of Corrections/hire consultants to analyze the adequacy of the classification system.

## STRATEGIES FOR MANAGING OVERCROWDED JAILS

### VISITATION

#### THE PROBLEMS . . .

- Unable to meet Minimum Jail Standards of two visits totaling one hour per week (Type I and II facilities).
- Unable to accommodate attorney consultation.
- Inadequate number of booths and telephones to accommodate visitors.
- Difficulty in scheduling the large demand for visitation.

#### STRATEGIES . . .

1. Shorten visiting time.
2. Expand hours of visitation to seven days per week, 12 hours per day. In Riverside County, attorneys may consult with inmates 24 hours per day; correctional staff are assigned to coordinate these visits.
3. Add telephones for visitation.
4. Rotate visitation by class of inmate each day (San Bernardino County).
5. Transport inmates to another facility for conferences with attorney. In Madera County, inmates are transported to the county courthouse for these conferences.
6. Assign jail staff to make appointments with attorneys. The San Diego County Central Detention Facility established an attorney "hotline" to make reservations with client/inmates within 30 minutes of calling.
7. Partition visiting areas to create privacy.
  - a. Use sign-up forms to determine visitation priority.

## STRATEGIES FOR MANAGING OVERCROWDED JAILS

### MEDICAL SERVICES

#### THE PROBLEMS . . .

- Intake volume restricts the extent of medical screening.
- Unable to meet inmate health care needs.
- Long waits for sick call, and increasing sick calls due to fight and falls.
- Delays in distributing medication.
- Cannot accommodate inmate transportation to the hospital.

#### STRATEGIES . . .

1. Expand hours of medical staff coverage and sick call. In Kern County, medical care is provided at the jail 24 hours a day, 7 days a week.
2. Expanded medical coverage requires increased staffing and possible the use of overtime. In Lassen County, a nurse practitioner conducts sick call to reduce medical staffing costs.
3. Have County, Health Department personnel assigned to the jail.
4. Rely more on the county hospital for inmate medical care.
5. Contract for medical services with private medical groups and the County Health Department (Shasta County).
6. Contract for dental care. In Madera County, a dentist under contract (with a fully equipped 'dental office in a van) visits the jail every two weeks.
7. Provide inmates with complete medical screening to identify any problems at the time of booking. In San Francisco County, if the arrestee's medical problems cannot be properly treated at the jail, s(he) is considered unacceptable for detention and referred back to law enforcement.
8. Add mental health counseling to medical services.
9. Prioritize inmate needs for medical services from most to least critical. In San Diego County, a rating system is used to identify inmates with the most acute health care needs.
10. Seek certification of this jail medical program through the California Medical Association.
11. Contract for medical services through a private vendor. (Butte and Shasta Counties.)

## STRATEGIES FOR MANAGING OVERCROWDED JAILS

### FOOD SERVICES

#### THE PROBLEMS . . .

- Delays in inmate feeding.
- Complaints about food.
- Not enough time allocated for meals.
- Increased cost of food for larger inmate population.
- Inadequate space for food storage.

#### STRATEGIES . . .

1. Transport meals in trays to the inmates in their cells in heated food carts (rather than general feeding). Due to the extended time for complete feeding, Riverside County uses heated food carts to maintain food quality.
2. Use sealed heated trays for food service. Santa Clara County utilizes sealed heated trays, rather than the conventional bulk feeding, to expedite meals. They have also employed, a private food vending firm but subsequently appointed a full-time food service director.
3. Serve meals in shifts to make maximum use of dining areas.
4. Make maximum use of federal and state surplus food commodity programs. El Dorado County obtains the majority of its meat, butter, and produce at minimal cost through these programs.
5. Rent food storage space. Sacramento County rents off-site storage facilities for non-perishable food items, while perishable food is store at the jail.
6. Buy food items with long shelf life.
7. Increase the size of the food service staff, as well as working hours.
8. Contract food services to a private vendor. (San Francisco and Alameda Counties.)
9. Institute necessary vocational programs to qualify for federal surplus commodities.

## STRATEGIES FOR MANAGING OVERCROWDED JAILS

### INMATE ACTIVITY AND RECREATION

#### THE PROBLEMS . . .

- Recreation areas used for inmate housing (dayrooms - gymnasiums - exercise areas).
- Limited area and opportunity for recreation.
- Longer time periods between recreational activities.
- Inmates are in their cells the majority of time due to the absence of work or recreational opportunities.

#### STRATEGIES . . .

1. Place television sets in front of each cell block from 8 am to 10 pm to "keep inmates occupied".
2. Place video machines in dayrooms. In Placer County, VCR's are placed in every dayroom with unlimited access to movies. Since installing the VCR's, inmate writs have dropped dramatically.
3. Install telephones in each cell block with unlimited use (collect long distance calls only).
4. Modify detention facility to provide recreational areas. In Stanislaus County, the jail roof was modified to provide an area for exercise.
5. Assign jail staff to inmate recreation. San Joaquin County has a recreational director under contract.
6. Assign inmates to work details. In Riverside County, inmates are assigned to cleaning and painting crews for facility maintenance, and to provide some constructive activity.
7. Provide inmates with reading materials, games, and cards. Santa Clara County purchased sports equipment to meet the conditions of a compliance settlement.
8. Implement exercise programs and install exercise equipment. In San Luis Obispo County, two exercise yards were developed and weight machines were installed in the dorm, providing the opportunity for 20 hours of exercise per inmate per week.
9. Hire recreation officer to assure a full recreation program.

## STRATEGIES FOR MANAGING OVERCROWDED JAILS

### INMATE PROGRAMS

#### THE PROBLEMS . . .

- Insufficient program space; some of which was converted to housing.
- Inadequate library services to meet the demand.
- Reduced levels of counseling and educational programming.

#### STRATEGIES . . .

1. Enhance inmate services. Ventura County has used inmate welfare funds and grant funding to establish a GED program, English as a second language, substance abuse services, counseling (individual and family), and veteran's services. Yolo County has expanded its religious programs by using volunteer clergy and has established a drug/alcohol rehabilitation program, a GED program, work furlough, and a vocational work crew program.
2. Provide inmate counseling by using staff from the County Mental Health Department.
3. Implement a computerized learning program (San Diego Sheriff's Office).

## CLASSIFICATION AND SEGREGATION

### THE PROBLEMS . . .

- Cannot house inmates within their classification (classification category overcrowding).
- Mixing inmates of different classifications in housing units.
- Limited number of single cells to accommodate segregation and protective custody inmates.
- Staff forced to constantly move high risk and protective custody inmates in and out of segregation and single isolation cells.
- Combining sentenced and unsentenced inmates in housing units.
- Facility design limits the ability to segregate inmates.
- Insufficient number of jail personnel available to adequately staff the classification unit.

### STRATEGIES . . .

1. House all protective custody inmates together in one dormitory and house inmates together with similar classifications.
2. Add a classification unit to the jail staff.
3. Provide the classification unit with training by the NIC National Academy of Corrections in Boulder, Colorado.
4. Have the classification unit use an objective set of scored criteria to assist in assigning a classification level to each inmate. San Diego County uses a set of numerically weighted items of current and previous criminal behavior to supplement more subjective criteria in making classification decisions.



## STRATEGIES FOR MANAGING OVERCROWDED JAILS

### INMATE TRANSPORTATION

#### THE PROBLEMS . . .

- Workload is too great for the staff assigned to inmate transportation.
- Inadequate number of vehicles for the number of trips that must be made and their duration.
- Overloaded transportation system increases the opportunity for escape.
- Hospital transportation for inmate injuries compounds the problem.
- Cannot accommodate scheduled court appearances.

#### STRATEGIES . . .

1. Increase the number of staff assigned to inmate transportation.
2. Purchase additional passenger buses and vans.
3. Use deputies assigned to patrol for inmate transportation, when necessary.
4. Increase use of overtime to cover inmate transportation.
5. Use custodial staff to transport inmates.
6. Modify inmate transport gear (waist chains) to reduce the escape risk during transportation.
7. Use video arraignment. Riverside County uses video arraignment to reduce inmate preparation and transportation time.
8. Hold all arraignments at the courthouse adjacent to the jail rather than transporting inmates to distant municipal courts for arraignment.

## **INMATE DISCIPLINARY AND GRIEVANCE PROCESSES**

### **THE PROBLEMS . . .**

- Increased number of grievances and writs filed.
- Increase in the number of disciplinary problems associated with overcrowding.
- Inmates file grievances against a multitude of jail services, programs, and physical conditions.
- Insufficient staff to conduct inmate orientation to jail procedures and regulations.
- Disciplinary and grievance procedures not documented.

### **STRATEGIES . . .**

1. Assign jail staff exclusively to problems involving grievances, writs, lawsuits and discipline.
2. Provide entire jail staff with training in dealing with disciplinary and grievance problems. Riverside County jail staff attempt to deal with these problems before they escalate into major administrative issues.
3. Assign specialized personnel to assist with inmate grievances. In Madera County, a full-time chaplain (ombudsman) negotiates inmate grievances and provides individual and family.
4. Maintain inmate services, programs, and jail environmental conditions at an acceptable level to minimize grievances.
5. Develop a disciplinary and grievance procedures manual for staff guidance and inmate orientation.
6. Jail commander to maintain a central log of discipline/grievances to check for problem areas.

## STRATEGIES FOR MANAGING JAIL OVERCROWDING

### STAFFING

#### THE PROBLEMS . . .

- Insufficient staff for adequate inmate management.
- High staff turnover rates.
- Cannot compete with the California Department of Correction's salary scales -- county is training correctional officers for the State.

#### STRATEGIES . . .

1. Expand the use of overtime. (This is the most common response to staff shortages.)
2. Use patrol deputies in the jail on an overtime basis.
3. Use extended shifts. Yolo and Shasta Counties have expanded shifts to 12 hours to cover inmate supervision.
4. Hire additional sworn and non-sworn staff:
5. Use part-time correctional officers.
6. Increase use of reserve (non-sworn) correctional officers serving as interns with limited inmate contact. (These reserve officers may eventually become full-time staff.)
7. Use non-contact personnel to supplement the jail staff. Los Angeles County employs Custodial Assistants as interns. These interns may be younger than the minimum age for deputies; they receive one month of training before assuming non-physical contact duties in the jail, (e.g., control room).
8. Use personnel management software tools. Ventura County has developed a software package to track and report on overtime use patterns.
9. Civilianize, where possible, those positions now filled by sworn staff.

## STAFF AND INMATE SAFETY

### THE PROBLEMS . . .

- Increased number of fights, robberies, and assaults (inmate-staff and inmate-inmate).
- Increased number of staff assaults resulting in greater disability.
- Increased tensions among staff and inmates.
- Due to overcrowding, inmates are housed out of classification increasing the probability of assaults.
- Increased number of incidents of inmate-inmate coercion.
- Inability to adequately supervise inmates during mass movement (e.g., meals) resulting in an increased number of incidents.

### STRATEGIES . . .

1. Increase staffing. (This is the most common resolution to safety problems.)
2. Improve classification and segregation systems. A good classification system, and segregating inmates by classification, tends to reduce the number of assaults.
3. Train staff in safety. Counties have implemented a program to improve staff/inmate safety. San Diego County established a security awareness and training program that has reduced the number of incidents.
4. Place increased emphasis upon recreation, exercise, and inmate programs to reduce tensions in the jail.
5. House selected segregation cases in adjacent counties.
6. Segregate gang members. Los Angeles County has reduced inmate assaults by segregating gang members to prevent any concerted action.
7. Improve the facility design to minimize staff-inmate contact.
8. Assign special security personnel to the jail. In Yolo County, a special security unit of law enforcement is assigned to detention duty.
9. Utilize retired citizen volunteers to monitor remotely, the facility exercise yard (Tehama County).

## STRATEGIES FOR MANAGING JAIL OVERCROWDING

### INVENTORY STORAGE AND CONTROL

#### THE PROBLEMS . . .

- Shortages of clothing and mattresses
- Difficulty in maintaining an adequate inventory of inmate supplies.
- Lack of accountability for inmate issued clothing and mattresses.
- Destruction of clothing and mattresses-by inmates.
- Increased laundry costs for clean clothing.

#### STRATEGIES . . .

1. Assign a correctional officer full-time to inventory control and ordering of supplies to anticipate needs and order well in advance.
2. Assign a correctional officer to the commissary on a full-time basis.
3. Implement inventory control systems to achieve accountability and maintain adequate levels of supplies. Two counties have installed computer-based inventory control systems: Alameda County and Ventura County.
4. Implement a countywide centralized supply/storage system (Riverside County).
5. Convert current facilities to store inmate supplies; construct new facilities.
6. Assign inmate workers to laundry duty.
7. Install washers and dryers in selected housing units.

## SANITATION

### THE PROBLEMS . . .

- Increased problems with vermin control.
- Increasingly difficult to maintain the general cleanliness of the housing area.
- Reduced access to the toilet and shower areas for both inmate use and sanitation.
- Inmate displacement during cell cleaning, sanitation, and painting.
- Inmates eating adjacent to toilets.
- Increased costs of janitorial supplies.

### STRATEGIES . . .

1. Obtain monthly pest control by a professional firm.
2. Document daily sanitation inspections by jail supervisory or administration staff. In San Francisco, the detention chief does a weekly formal inspection.
3. Continuously mop, clean, and paint the housing area.
4. Use an incentive program to maintain good sanitary conditions. In Lake County, inmates in housing areas that pass cleanliness-sanitary inspections are rewarded with either movies, pizza, or video time.
5. Use inmate labor for cleaning and sanitation on a daily basis.
6. Empty one cell each week for cleaning and painting.
7. Place a person trained in sanitation on the jail staff. San Joaquin County hired an "executive housekeeper" whose sole responsibility is cleanliness, pest control, and sanitation.

## STRATEGIES FOR MANAGING OVERCROWDED JAILS

### **FACILITY MAINTENANCE**

#### THE PROBLEMS . . .

- High facility equipment failure rates due to overuse and equipment exceeding 30 year life cycle.
- High rates of plumbing system failures, particularly toilets, showers, and hot water heaters.
- Electrical system failures, including ventilation and air conditioning systems.
- High door and lock failure rates.
- Unable to do proactive preventative maintenance; staff size restricts maintenance to crisis situations.
- County maintenance crew cannot cope with the repairs required.
- Inmate displacement during maintenance and repair in housing units.
- Reduced inmate access to areas with maintenance problems (i.e., toilets and showers).

#### STRATEGIES . . .

1. Rebuild plumbing system. In El Dorado County the entire plumbing system to the showers and toilets was replaced.
2. Replace aluminum/epoxy toilets with stainless steel.
3. Assign full-time maintenance/plumber/electrical personnel to the jail, eliminating the competition from other county facilities for this staff service and assuring that priority jail work is done.
4. Use a combination- of jail trustees and county maintenance personnel. San Diego County uses knowledgeable trustees for simple repair and maintenance, and County Maintenance for more complex work.
5. Contract with local plumbing and heating firms for maintenance and repair. (In some cases, this has been court-ordered to assure needs are met.)
6. Empty a different cell each week for maintenance and repair.
7. Accelerate the schedule for equipment inspection.
8. Automate maintenance scheduling. San Joaquin County has implemented a computerized preventative maintenance program which produces a monthly schedule of equipment in the jail requiring maintenance.

## **SUMMARY**

This section has presented problems and potential solutions in fourteen key areas of jail management and operations. In reviewing this material, it should be clear to all concerned that jail overcrowding imposes a cost upon local government whether or not a new jail is constructed. Increased staffing, for example, will often be a necessary response to overcrowding to ensure safety and adequacy in providing services. As staffing and other operational costs rise in the overcrowded jail, local governments must compare these costs with the costs of constructing and operating efficiently a new jail facility. It may turn out that the operational efficiencies of a new facility will significantly offset, over time, construction costs for a new jail.



## SECTION 4

### SYSTEM SOLUTIONS FOR A SYSTEM PROBLEM

Solutions to complex (jail) problems can be achieved when local sheriffs and county officials commit themselves to working closely together. Cooperation with state agencies and creative use of federal resources have produced very encouraging improvements.'

A comprehensive strategy to manage jail populations will employ programs and procedures to (1) reduce admissions to the jail, (2) reduce the number of inmates and the duration of their stay awaiting trial or sentencing, and (3) impact sentencing practices. Clearly, officials administering jails must work in concert with other local criminal justice officials to develop and implement these programs and procedures.

This section of the handbook emphasizes the collective steps that can be taken within the local criminal justice system to address jail overcrowding problems. First, two specific committee structures are briefly examined -- Jail Capacity Management Boards and Jail Capacity Oversight Committees. Second, the broad topic of alternatives to jail incarceration and accelerated case processing is addressed, discussing law enforcement, prosecution, court, and jail-based programs.

#### **MULTI-AGENCY COMMITTEES**

In our survey of California jails, and in our gathering of materials on current jail overcrowding response efforts across the country, we encountered a number of multi-agency committee structures formed to deal with the problem. In many instances, these committees have been formed to develop a Jail Capacity Management Plan. In other cases, these committees develop and oversee alternative to incarceration programs in which multiple agencies participate. Whatever the specific objectives, multi-agency committees are a useful vehicle for attacking the jail overcrowding problem comprehensively.

#### **Jail Capacity Management Boards**

Since the dimensions and characteristics of a jail's population are beyond the full knowledge and control of a single agency, an effective multi-agency board is an appropriate means of setting population management policies and procedures. The formation

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<sup>4</sup> Vice President George Bush.

of a Jail Capacity Management Board as a countywide planning body is a concept of proven value in addressing jail overcrowding, as demonstrated during the four-year duration of the national LEAA Jail Overcrowding Program. Through such a board, county officials can assume a shared responsibility for policies and procedures, thereby reducing the political risks that the consequences of these decisions may bring.

A Jail Capacity Management Board should be made up of representatives from each branch of government in the county, and from every criminal justice agency. Representation on the board should also be considered for every public board and executive agency that can impact admissions to jail, length of stay, alternatives to incarceration programs, and the allocation of public funds for incarceration and its alternatives. Each agency should be represented by a person (or persons) having the authority to make policy, and to commit the agency to new policies and procedures.

The role of the Board is to develop a consensus about the causes of jail overcrowding in the jurisdiction, and on measures to contain or reduce it. The Board usually fulfills this role by commissioning a study of the factors and agencies that impact jail intake and length of stay which in turn determine the size and characteristics of the jail population. The findings from the study will suggest alternative policies and procedures governing defendant processing that could be implemented. The Board then selects from among the optional courses of action proposed certain measures for implementation. These recommendations are incorporated in a formal Jail Capacity Management Plan. The members of the Board share the risks of introducing new or liberalized arrest, release, and diversion practices embodied in the plan.'

The following agencies/public officials should be considered for representation on the Board:

- Sheriff
- Jail administration
- Municipal police departments
- Prosecutor
- Municipal and superior courts
- Court administrator
- Probation
- Public defender
- County supervisors
- County executive

The strongest chairperson for a Jail Capacity Management Board is an official deeply concerned about jail overcrowding, widely respected, and politically positioned to inspire the active participation of all Board members. The most successful LEAA Jail Overcrowding Program projects were in counties that provided judicial leadership or strong judicial participation. Judges are in a position of natural leadership in developing and implementing new measures to alleviate jail overcrowding, due to the discretionary powers and political influence of the courts. Judges are also in a position to provide leadership in seeking funding for the development of pre- and post-adjudication alternatives to jail, particularly in the area of sentencing alternatives to incarceration.

Our survey of jail administrators in California showed that 18 counties have formed Jail Capacity Management Boards, although some were established for the short-term goal of seeking funding under Proposition 52.

### **Jail Capacity Oversight Committees**

Jail Capacity Oversight Committees typically have the more immediate objectives of expediting custody cases and releasing defendants, when appropriate. The composition of such a committee is usually more restricted than a Jail Capacity Management Board, consisting of a municipal or superior court judge, jail administrator, assistant prosecutor, and public defender. The jail administrator may appoint a Jail Case Coordinator to the committee with the responsibility of improving the efficiency of processing custody cases by identifying individual cases in need of special attention and detecting processing steps that could be shortened.

A Jail Capacity Oversight Committee customarily meets weekly to review all jail cases (pre- and post-adjudication), to detect any delays in case handling (filing of charges, trial commencement, pretrial release decisions, Pre-sentence Investigation (PSI), transport to the Department of Corrections) to determine if further confinement is necessary, and to identify procedures that require modification. Committees of this type have established such rules as the automatic review of all cases in pretrial detention over 60 days. Strong judicial leadership again is a key ingredient to effective action.

### **ALTERNATIVES TO INCARCERATION**

Many jurisdictions, when faced with a crisis in jail overcrowding, consider only two options: (1) new construction and/or (2) implementation of a single, often very costly, jail alternative program. Experience has shown that a combination of alternatives to incarceration has greater overall impact than reliance on a single initiative. In addition

to or in place of new jail construction, a complete range of jail alternatives and methods for expediting case processing should be evaluated and selectively implemented. (In evaluating programs for implementation, care must be taken that multiple programs are not directed at the same target group, e.g., sheriff's release of low risk inmates who would also qualify for a work furlough program.)

In gathering material on jail overcrowding, we noted that virtually all serious attempts to manage jail populations include aggressive programs to provide alternatives to jail incarceration at various points in the criminal justice process. Several types of alternative programs exist: pre-trial release, citation release, release on recognizance, and post-trial alternatives (sentences in lieu of jail time such as probation, community service, and restitution).

Our survey of California jail administrators conducted in preparing this handbook gathered data on the various types of alternative to incarceration programs used in the state. The survey assessed both the frequency of use of the program types and their estimated impact on jail populations: Table 1, Release and Case Processing Programs, shows the findings of this part of the survey by criminal justice agency involved and cited sections of the California Penal Code (when applicable). Frequency of use and jail impact were subjective estimates in many cases, by respondents to the survey. A description of each program type follows in this section.

TABLE 1  
RELEASE AND CASE PROCESSING PROGRAMS

	FREQUENCY OF USE			IMPACT ON JAIL POPULATION		
	<u>Low</u>	<u>Medium</u>	<u>High</u>	<u>Small</u>	<u>Moderate</u>	<u>Large</u>
<b>1. <u>Law Enforcement Release Programs</u></b>						
Field Citation (PC 853.6) (misdemeanors)			x			x
Diversion to Services (Family Disputes, Mentally Ill, etc.)		x		x		
Release Without Charge (PC 849(b)) (Public Inebriates in Police Lockups)	x			x		

**Table 1. continued**

	FREQUENCY OF USE			IMPACT ON JAIL POPULATION		
	<u>Low</u>	<u>Medium</u>	<u>High</u>	<u>Small</u>	<u>Moderate</u>	<u>Large</u>
<b>2. <u>Jail Release Programs</u></b>						
Jail Citation (PC 853.6) (Pretrial - Misdemeanors)			x			x
Release Without Charge (PC 849(b)) (Pretrial - Public Inebriates)			x		x	
Diversion to Services (PC 4011.6) (Pretrial - Mentally Ill)		x		x		
Warrants - Holds Clearance Programs			x	x		
Programs to Reduce the Parolee Population		x		x		
Sheriff-Initiated Work in Lieu of Jail (PC 4024.2) (Sentenced - Many DUI)			x			x
County Parole (PC 3074) (Sentenced)			x		x	
Early Release (PC 4024.1) (Sentenced)			x			x
Early Release (PC 4019) (Work - Good Time)	x			x		
Early Release (PC 4018.6) (Release to Community)	x			x		
Weekend Furlough/Sentences	x				x	
<b>3. <u>Prosecutorial Programs</u></b>						
Diversion from Prosecution (PC 1000) (Pretrial)		x			x	
Early Case Screening (Pretrial)	x			---	UNK	---
Early Defense Review of Cases (Pretrial - Public Defender)	x			---	UNK	---
Expedited Processing of Detention Cases (Pretrial)	x			---	UNK	---
Felony Recognizance Release (OR) (Pretrial)	x			x		

**Table 1. continued**

	FREQUENCY OF USE			IMPACT ON JAIL POPULATION		
	<u>Low</u>	<u>Medium</u>	<u>High</u>	<u>Small</u>	<u>Moderate</u>	<u>Large</u>
4. <u>Judicial Programs</u>						
Own Recognisance (OR) Release (Pretrial)			x		x	
Early Bail Setting (Pretrial)	x			---	UNK	---
Supervised OR Release (Pretrial)	x			x		
Third Party OR Release (Pretrial)	x			x		
Use of Summonses in Lieu of Arrest Warrants (Pretrial)	x			---	UNK	---
Court Delay Reduction Programs (Pretrial)		x			x	
Video Arraignment (Pretrial)	x				x	
On-Call Judges (Pretrial)		x			x	
Night Courts (Pretrial)	x			---	UNK	---
Court Calendaring and Trial Staff Management (Pretrial)		x		x		
Non-incarceration Sentencing Programs (Probation, Community Service, Fines, Restitution, Treatment)			x		x	
Home Detention Sentences		x		x		
Expedite Writing Pre-sentence Investigation Reports	x			---	UNK	---
Modification of Sentences (When Overcrowded)		x		x		
UNK = Unknown Impact						

Programs that are used frequently and have an estimated high impact on jail populations as identified in the survey are:

- Field Citation (PC 853.6)
- Jail Citation (PC 853.6)
- Work in Lieu of Jail (PC 4024.2)
- Early Release (PC 4024.1)

These programs all directly reduce the jail population.

Programs with either high frequency use and moderate impact or moderate frequency use and high impact were identified as follows:

- Release Without Charge (PC 849(b))
- County Parole
- Own Recognizance (OR) Release (Pretrial)
- Non-incarceration Sentencing Programs (Probation, Community Service, Fines, Restitution, Treatment)

All of the programs described below are worthy of consideration as a potential contributor to a jail population reduction strategy. The objective for a local criminal justice system is to find the right mix of programs for the jurisdiction.

#### Law Enforcement Release Programs

##### 1. Field Citation (PC 853.6)

Under this section of the Penal Code, a person arrested for a misdemeanor, who does not demand to be taken before a magistrate, is eligible for release after signing a notice to appear in court if (1) proper identification can be provided, (2) it is unlikely that the offense will continue or resume, (3) the safety of persons or property would not be endangered by such release, and (4) there is reason to believe that the person would appear in court. Field citation is a very effective method of deflecting many misdemeanor arrestees from booking at the jail, has a direct influence on the jail population, and is the least costly release mechanism available. Field citations result in substantial savings in officer time, transportation, bookings, and incarceration. The majority of county law enforcement agencies in California make use of field citation, with a significant impact on the jail population. For citation release 'planning and implementation strategies, see Reference No. 28 in Appendix A, Countywide Citation Release Programming: An Alternative Delivery System.

## **Prosecutorial Programs**

### **1. Diversion (PC 1000, PC 1000.2, PC 1000.6)**

PC 1000 permits diversion of persons from criminal prosecution by the District Attorney who are arrested for the possession or use of a controlled substance if (1) the defendant has no prior convictions involving controlled substances, (2) the offense did not involve violence, (3) no other drug or narcotic offenses were involved, or (4) the defendant has not been diverted under PC 1000 in the last five years, nor convicted of a felony within that time period. Persons so diverted are remanded to public or private drug rehabilitation programs. PC 1000.2 provides for the diversion of persons from criminal justice proceedings who could benefit from educational, treatment, or rehabilitation programs; primarily, the mentally retarded. Diversion from criminal proceedings is for no less than six months, nor longer than two years. PC 1000.6 diversion applies to misdemeanor acts of domestic violence with no (1) history of violence within the last seven years, (2) probation or parole revocations, or (3) diversions under PC 1000.6 within the preceding five years.

The majority of diversion cases, which have the greatest impact on the jail population, are for drug-related offenses (PC 1000). The prosecuting attorney initiates the diversionary process in which the court must subsequently concur. An investigation is conducted by the probation department and a recommendation made to the court regarding suitability for diversion and appropriate program assignment. If diversion is approved, the individual is assigned to a program with probation department supervision, and prosecution deferred. If the treatment program is successfully completed, the original charges are dismissed and the case closed.

Although advocates of diversion may focus more on the treatment needs of arrestees than on the jail population, prosecutors are usually aware of the costs entailed in criminal proceedings, their impact on court caseloads and the utilization of scarce bed space in the jail.

### **2. Early Case Screening**

Some jurisdictions now require early screening of arrest warrants to reduce jail admissions. Police officials must obtain the prosecutor's approval before an arrest warrant can be served.

A number of jurisdictions assign experienced assistant prosecutors to review all new arrests shortly after booking. This early prosecutorial review of police charges can result in the elimination or downgrading of weak cases on a timely basis. Charges that are difficult to prove may be eliminated altogether, resulting in a decreased average length of stay through early release. Early case review may result in the reduction of charges to a level that citation release (for misdemeanors) can be utilized or bail reduced to an amount that can be posted. In Sacramento County, a senior prosecutor screens new felony arrests. Of an average of 1200 felony arrests per month, 600 were filed as felonies, 400 were reduced to misdemeanors (and cited), and 200 were released under PC 849(b).

Early case review can also apply to the defense attorney's time of entry into a case. In a study of three jurisdictions reported at the County Supervisors' Association Jail Overcrowding Workshop in February 1985, it was found that persons in custody were released more quickly if the first interview with the defense attorney



occurred prior to or at arraignment. In this way, the defense attorney can make motions for recognizance release (OR) or bail reduction, and the judge can make pretrial release decisions at that time (assuming criminal history and community tie information are also available).

## Jail Release Programs

### 1. Jail Citation (PC 853.6)

Under this section of the Penal Code, if the person meets the conditions specified for field citation but is not released prior to booking, the officer in charge of booking (or his or her superior) may prepare a written notice to appear in court if s(he) determines that the person should be released.. Citation release at the jail is the most frequently used pretrial release mechanism and may be employed after booking, or before booking as a “cite and release” procedure, to reduce jail admissions.

### 2. Release Without Charge (PC 849(b))

Since the decriminalization of public intoxication in California, public inebriates can be arrested under PC 647(f) when it is determined that the alcohol or drug intoxicated person is exhibiting disorderly conduct to the extent that s(he) is unable to exercise care for her or his own safety, or the safety of others. A peace officer may place the public inebriate in civil protective custody under Section 647(ff) of the Penal Code and transport the person to a designated facility pursuant to Section 5170 of the Welfare and Institutions Code for the 72-hour treatment and evaluation of inebriates. No person who has been placed in civil protective custody will be subject to criminal prosecution. Since most counties in California have limited or no detox facilities available for referral by the peace officer, the inebriate is transported to the jail and subsequently released under PC 849(b) when sober. PC 849(b) specifies that a peace officer may release from custody any person arrested without a warrant whenever the person was arrested only for being under the influence of alcohol or a controlled substance, and such person is delivered to a facility for treatment and no further proceedings are desirable.

Since approximately 19 percent of all misdemeanor pretrial bookings are for public drunkenness, releases under PC 849(b) can provide at least temporary relief in an overcrowded situation. Data from the Board of Corrections shows that one-half of those released prior to court disposition were released through PC 849(b) within eight hours. In the majority of counties, the 10 percent or less of the public inebriates who go into the general jail population have holds, warrants, other charges, or are in need of medical attention.

### 3. Diversion of the Mentally Ill (PC 4011.6)

In Mentally Ill People in Jail, the National Coalition for Jail Reform estimates that between eight and ten percent of the people admitted to jails in the United States are chronically mentally ill. This phenomena was magnified in California by the deinstitutionalization of patients and the closing of many state mental hospitals. Throughout California, mentally ill persons present a growing intractable problem for the criminal justice system. Due to the scarcity of mental health facilities and resources available to the disordered person involved with the criminal justice

system, more of their numbers are being admitted to jail for protective custody by law enforcement officers. Typically, jails do not have the resources to treat offenders who exhibit mental disturbances. As a result, a certain distinct group seems to cycle between mental health agencies and the jail.

PC 4011.6 provides that if the jail commander determines a person in custody may be mentally disordered, he may cause that person to be taken to a facility for 72-hour treatment and evaluation under Section 5150 of the Welfare and Institutions Code. Depending upon the circumstances, the prisoner may remain at the mental health facility or be returned to the jail. A prisoner transferred to an inpatient facility under this section may convert to voluntary inpatient status, remain at the facility, and thereby reduce bed space requirements at the jail. If a prisoner is detained in such a facility, this section of the Penal Code provides that the time spent in detention shall count as part of the sentence served.

PC 4011.8 provides that a person in pretrial or sentenced custody may make voluntary application for inpatient or outpatient mental health services in accordance with Section 5003 of the Welfare and Institutions Code. Criminal proceedings are temporarily suspended for pretrial inmates. Time spent in such a facility by sentenced prisoners is counted as part of the sentence. Both sentenced and unsentenced commitments to such facilities reduce the demand for bed space in the jail.

#### 4. Warrants - Holds Clearance Program

Many individuals charged with misdemeanors or felonies remain in custody because of local or out-of-county holds and warrants. Data from the Board of Corrections shows that two-thirds of the unsentenced jail population accused of a misdemeanor have a hold or warrant. Because holds and warrants extend the length of stay and impact the number of inmate days, several jurisdictions have initiated programs to clear or cite-out inmates detained on holds and warrants.

Typically, a check is made during the booking process to determine if the arrestee has any outstanding holds or warrants. If a hold or warrant exists, these additional charges are added at the time of booking. In actuality, efficient warrant-hold retrieval systems may increase the jail population by identifying more arrestees with outstanding holds and warrants. Some counties release misdemeanor warrants by citation, a practice disallowed by the California Attorney General; whereas in other jurisdictions, arrestees remain in jail until other agencies clear the hold or pick up the prisoner. Senate Bill 262 was introduced in the Legislature in 1987 to authorize citation release of misdemeanor warrant arrests.

A county's efficiency in processing and clearing warrants and holds can directly impact the jail population through increases or decreases in the length of stay. The rapid clearance of holds and warrants is dependent upon the availability of timely information, so that court dates can be set, agencies notified, and invalid warrants identified. Some of the specific strategies employed to expedite processing and removal of persons incarcerated on holds and warrants that were identified are:

- Multiple traffic warrants are consolidated with a new crime rather than going to the court of original jurisdiction.

- Prisoners are automatically released if not picked up by the jurisdiction issuing the hold within five days of notification.
- Misdemeanor holds with bail less than \$3,000 are automatically released five days after notification.
- Recognizance release unit reviews all warrants.
- FTA warrants are cited.
- Admission to jail is refused for warrant arrests with bail less than \$2,000.
- A “speedy trial” request is filed on every prisoner booked with a warrant.
- An automated information system is implemented to identify and advise probation staff daily of arrests of those on probation.
- Jail staff are assigned to clear holds, expedite outside agency transportation, and process prison commitments.

##### 5. Programs to Reduce the Parolee Population

Jail administrators have stated that parolees from state prisons contribute significantly to jail overcrowding. To determine the impact that these parolees in custody in county jails were having on jail populations, the Board of Corrections and the Parole and Community Services Division of the Department of Corrections conducted a one day survey of the number and status of parolees in county jails. This one day sample of jail populations in 1985 showed that there were 5,490 parolees in custody in county jails in California on February 20th. These 5,490 parolees represented 11.7 percent of the total ADP reported for January 1985, and 23.9 percent of the average pretrial population for that month. Since most parolees are held in maximum security pretrial housing units, they particularly impact this segment of bed space in the jail.

Parolees are in county jail because they were either arrested by a county law enforcement agency on a new charge or they violated the conditions of their parole. A person on parole charged with a new offense is processed by the county in the same way as anyone charged with a crime, except that a parolee would have a state hold, and therefore would not be eligible for citation or recognizance release. Such a person would remain in custody until the new offense is adjudicated and the state hold cleared. Results of the one day survey in 1985 indicated that inmates with “Local Charges Pending” represented almost 45 percent of the parolees in the jail population. Of the second largest group of parolees in county jails in the survey with “No Local Charges Pending”, four percent were awaiting action by the Department of Corrections and 18.5 percent were waiting for decisions by the Board of Prison Terms. These prisoners, though small in numbers relative to the general population, impact jail overcrowding because of long lengths of stay. In a study of jail overcrowding in Sacramento County, it was found that although inmates with prison, parole, and federal holds comprised only two percent of the inmate population, they occupied 21 percent of the available bed space because of their average length of stay, which exceeded 43 days.

A number of strategies have been developed to expedite removal of parole violators from local detention facilities:

- The Board of Prison Terms, in conjunction with the Department of Corrections, established an overall target guideline of 45 days from the date that a hold is placed until the revocation hearing is held. In 1984, the average time range was 52 to 94 days.
- Parolees are transported from the local jail to a CDC facility if not removed within a specified time after notification.
- Parolees are automatically released if not removed from jail within a stipulated time period after notification of CDC.
- Jail staff are assigned to process, establish liaison with CDC, and expedite removal of parolees.
- Some jurisdictions will not admit persons with a parole violation (only), or those who fail state parole work furlough at a community correctional center (PC 6253(b)).
- Parole violators with no local charges are returned to CDC institutions for revocation hearings..
- Parolees who constitute little or no threat to public safety are allowed to remain in the community pending their revocation hearings.
- The Department of Corrections is now contracting with local jurisdictions for return to custody cases in facilities especially constructed for state prisoners pursuant to the provisions of SB 1591.

#### Sheriff-Initiated Work in Lieu of Jail (PC 4024.2)

Section 4024.2 of the Penal Code states that the Board of Supervisors of any county may authorize the sheriff, or official in charge of a county correctional facility, to offer a voluntary program under which any person committed to such facility may perform a minimum of eight and a maximum of ten hours of manual labor on public works (streets, parks, and schools) in lieu of one day of confinement. Some counties release prisoners from jail early to serve their remaining sentences in work release programs. These programs are self-sustaining since the participants pay all administrative expenses. In some cases, the agency receiving assistance provides both transportation to the work site and supervision. Of the county jail administrators surveyed, 90 percent use Work in Lieu of Jail Programs to manage the jail population; 65 percent estimated them to be high impact programs.

#### 7. County Parole (PC 3074)

Section 3074 et. seq. provide for the establishment of a county Board of Parole Commissioners, consisting of (1) the sheriff or director of corrections, (2) the chief probation officer, and (3) a member who is not a public official, to be selected from the public by the presiding judge. The Board makes rules governing eligibility for parole. Applications for parole are granted or denied by vote of the Board,

following approval of the application by the Superior Court. Previously, county parole was granted for medical emergencies; but with the advent of jail overcrowding, it is being used more frequently to reduce the sentenced population. Eighty-seven percent of the jail administrators in the survey made use of county parole to a greater or lesser degree with a moderate to low level of impact on the jail population. Where county parole is used infrequently, it is attributed to (1) the scarcity of eligible inmates, (2) insufficient staff to supervise people on parole, and (3) judicial opposition.

8. Early Release (PC 4018.6, PC 4019, and PC 4024.1)

Under PC 4018.6, a county sheriff may authorize an early release of three days to prepare the inmate for his return to the community. Under Section 4019 of the Penal Code, an inmate's sentence may be reduced by five days of good time and five days of work time for every 30 days served, for a potential reduction in sentence of ten days per month. PC 4024.1 provides that the sheriff may apply to the Presiding Judge of the Municipal or Superior Court for a 30 day authorization to release sentenced inmates up to a maximum of five days early when the inmate count exceeds the bed capacity of the jail. The number of sentenced inmates released under PC 4024.1 cannot exceed the number necessary to balance the inmate count and bed capacity. Inmates closest to their normal release date are given accelerated release priority. Some jurisdictions use PC 4024.1 in conjunction with PC 4018.6 to achieve a total early release of eight days. Ninety seven percent of jail administrators in the survey make use of these provisions for early release, singly and in combination, with an estimated high to moderate impact on the jail population.

Judicial Programs

The courts guide case processing through every step to final disposition; no other criminal justice agency makes more decisions that affect the jail population. In addition, the discretionary power and political influence of the courts place presiding judges, and all judges, in a position of natural leadership in developing and implementing a system-wide strategy for containing the jail population.

1. Own Recognizance (OR) Release

Although the original intent of recognizance release (OR) was to provide a non-financial release mechanism for those who could not afford monetary bail, it is currently used by the courts with a high degree of frequency and has an estimated moderate impact on the jail population. In most jurisdictions, interviewers collect personal history information (criminal involvement and community ties) on defendants for submission to the courts, prior to arraignment. This information is used by the courts to assist in arriving at recognizance release and bail decisions. Some pretrial release units use a point scale (a numerically weighted set of criteria which are totalled) to determine (in part) the recognizance release recommendation that will be made to the courts. Pretrial release units are placed under the administrative control of the jail commander, the courts, or probation, and often are delegated release authority for misdemeanors; felony OR decisions are referred to the courts. These pretrial release units often have extended hours of coverage (24

hours per day/7 days per week) to accelerate release decisions and thereby reduce length of stay.

Several counties have made significant use of recognizance release (OR) with a major impact on the jail population. In 1986, San Diego County released 12,000 misdemeanors and 1,759 felonies on OR. The pretrial release unit in Santa Barbara County started in 1977 with the probation department and in 1981 was placed directly under the courts. The unit has three full-time and two part-time staff, with 15 to 17 volunteer college interns who work a minimum of one year. The unit is located in the jail and reviews all misdemeanor and felony arrests for OR eligibility (except first degree murder). The unit has operated a supervised OR program for higher risk defendants for the last four years [Gene Ward (805) 681-5643].

## 2. Court Delay Reduction

Programs to expedite trials and the disposition of cases can reduce the pretrial jail population by shortening lengths of stay in pretrial custody. Since only 10 to 20 percent of those booked pretrial remain in custody until final disposition, the impact of these programs on the jail population' is never large. Relatively few cases are actually disposed of by trial, so obtaining guilty pleas expeditiously through plea negotiations can reduce length of stay. A national study of felony dispositions in 1979 reported that guilty pleas from all convictions ranged from 81 to 97 percent. This represents a significant pool of cases that can potentially impact the pretrial population by accelerated plea bargaining which may result in a non-incarceration sentence for a lesser offense.

PC 1050 specifically addresses the subject of continuances and their impact on the jail population. Alameda County uses an automated system to track and inform the court administrator of the number of continuances being granted. In this way, the number of trial delays can be monitored and controlled.

Another aspect of court delay reduction is court calendaring. Section 1048 of the Penal Code requires that precedence be given to the prosecution of felony and misdemeanor cases when the defendant is in custody. PC 1382 contains the Speedy Trial provisions of the Penal Code. This section specifies that a defendant must be brought to trial within 60 days of filing, or the case dismissed. The efficient calendaring of cases from arraignment to final disposition and sentencing, for pretrial defendants in custody, is vital to the effective use of scarce bed space in the jail. The elimination of "dead time" during the adjudication process can be a significant factor in reducing the average length of stay. The elapsed time between final disposition and sentencing, during which the presentence investigation report is being prepared, should be examined as an element contributing to length of confinement. Several jurisdictions have found that persons in custody awaiting sentencing constitute a significant, proportion of the jail population that prompt sentencing could have reduced.

## 3. On-Call Judges

As jail overcrowding has become more critical, the early intervention of the courts in making pretrial release decisions is crucial to population management. One widely used program to expedite these decisions is the availability (by telephone) of

on-call judges at night and during weekends. Section 810 of the Penal Code requires the Presiding Judges of the Superior and Municipal Courts to designate a magistrate from each court to be reasonably available on call for the setting of orders for discharge from custody at all times when a court is not in session in the county. In some jurisdictions, where the majority of felony bookings occur at night and on weekends, this program has been very successful in expediting OR releases and reducing the number of defendants in pretrial custody.

#### 4. Non-Incarceration Sentencing

The use of sentencing options (incarceration and non-incarceration) varies considerably among counties in California. Sentences to county jail (singly and in conjunction with probation) have been the most common disposition of felony arrests in both Municipal and Superior Courts. Straight probation has been the next most common sentence for persons convicted in the lower courts. Prison was the second most frequent sentence, after jail with probation, for defendants convicted in Superior Court. Incarceration costs are estimated to be 10 to 14 times those of probation supervision.

Numerous jurisdictions have developed a range of non-incarceration sentencing options for use by the courts, in addition to those traditionally available, e.g., probation, fine, restitution, etc. Many have been developed in response to the treatment (versus punishment) needs of individual offenders, e.g., drug, alcohol, psychological, etc. Listed below, with a brief description, are some of the more innovative sentencing alternatives to jail developed in the last few years that are currently in use in California.

- Community Service. This sentencing alternative entails volunteer work with a community service agency and is distinct from sheriff-initiated work programs (PC 4024.2).
- Intensive Probation Supervision. This program accepts offenders who are too high risk for straight probation and would otherwise be sentenced to jail.
- Home Detention. As the technology has developed (bracelets and monitoring equipment), more counties are turning to home detention sentences; in some jurisdictions in conjunction with work furlough. San Diego County has 15 to 30 offenders on home detention at any one time in addition to a similar number on work furlough.
- Treatment. These are sentencing options that are intended to be responsive to the treatment needs of individual offenders. Drug and alcohol programs address education, treatment, and rehabilitation. Persons convicted of drug-related offenses can be directed into these programs in lieu of jail. Private agencies may enter into a contract with the courts or the offender to develop individualized sentencing proposals for consideration by the court. Some jurisdictions have developed specialized detoxification, treatment, and educational programs as alternatives to extended jail sentences for DUI offenders. The Board of Corrections recently (1986) completed a survey of the availability of in-

custody treatment programs and alternatives for sentenced drunk drivers (See Appendix A, No. 35).

## SUMMARY

This section of the handbook has dealt with those aspects of jail overcrowding that encompass the local criminal justice system as a whole. As a strategy for building a plan to manage jail populations with support and participation throughout the system, we noted and explained the formation of multi-agency committees -- Jail Capacity Management Boards and Jail Capacity Oversight Committees. As a strategy for reducing jail populations using a systems perspective, a variety of programs and procedures were explored that describe sentencing and release options, as well as expediting case processing.

Taking a systems perspective on jail overcrowding is beneficial and reasonable. There are practical steps that others in the local criminal justice system can take to alleviate jail overcrowding, some of which are not difficult to implement. We noted at the outset of this section that jail administrators cannot deal effectively with overcrowding in isolation, and they should not have to. Jail overcrowding is a problem not only for jail managers, but also for other criminal justice agencies, county elected officials and executives, and the entire community who will be required to fund any corrective measures.



## SECTION S

### CONCLUSION

This handbook has examined jail overcrowding as a legal problem, a management problem, and a problem for all parties in the local criminal justice system. As a legal problem, we have noted that there exists a well-established body of case law that sets the boundaries for adverse conditions in overcrowded jails. By law, jails cannot cross those boundaries regardless of budgetary constraints or other extenuating circumstances. As a management problem, we have demonstrated that virtually no area of jail management and operations is immune from the impacts of overcrowding. As a criminal justice system problem, counties have learned that jail overcrowding cannot be relegated only to corrections agencies. All agencies in the criminal justice system contribute to the problem and share the responsibility for solving it.

Ideas, strategies, and tools have been presented in this handbook to combat jail overcrowding. Section 2 compiled a number of policies and procedures adopted by jails operating under consent decrees to remedy conditions leading to successful inmate litigation. Section 3 examined the spectrum of jail management and operations, suggesting solution ideas to problems caused by overcrowding. Section 4 expanded the discussion outside the jail walls, calling upon all parties in the criminal justice system to participate in solving the over-crowding problem by forming multi-agency committees and implementing programs and procedures that create alternatives to jail incarceration.

As every jail administrator knows, the causes of overcrowding are complex and non-singular, making the problem a difficult one to solve. There is no particular recipe for success; counties need to combat the problem with a strategy and combination of solution ideas that work best in that county. Problems associated with overcrowding affect policies and procedures related to visitation, food service, programming, classification, sanitation, and inmate inactivity and recreation, among others. Similarly solutions are multiple and varied. Beyond exploring a host of straightforward alternatives to confinement, there are ideas for solutions in the form of planning and decision-making by multi-agency committees, management boards, and oversight committees. Furthermore, there are solutions available through law enforcement and jail release, as well as prosecutorial and judicial programs. The process of identifying all the impact areas of overcrowding and planning for realistic solutions remains the challenge to the jail administrator. This handbook is designed to facilitate both processes.

As the jail administrators consider the ideas, strategies, and tools compiled in this handbook, they will no doubt find that some of them are of little relevance to their particular jurisdiction. Some may not be feasible, while others may not address their particular problems, or may be too controversial to implement. If the jail administrator finds but a few useful ideas offered here, this handbook will have served its purpose, for each one may require a concerted effort to put in place.

An effective jail overcrowding strategy is the sum of many concerted efforts on the part of many concerned people. Jail administrators are using “every trick in the book” to cope with excessive populations in their jails. And, the list of “tricks” is growing larger as overcrowding persists and worsens. The problem will not go away, and solutions will not come easy. The key is for everyone to work hard on many fronts, and to work together toward this common and necessary purpose.

**APPENDIX A**  
**ANNOTATED BIBLIOGRAPHY ON JAIL OVERCROWDING LITERATURE**

## APPENDIX A

### BIBLIOGRAPHY

Many of the articles and monographs cited here may be procured from either the National Criminal Justice Reference Service (NCJRS) or the National Institute of Corrections Information Center (NICIC). Addresses and telephone numbers for those two excellent reference services are:

- National Criminal Justice Reference Service  
Box 6000, Department F  
Rockville, MD 20850  
(301) 251-5500
- National Institute of Corrections Information Center  
1790 30th Street, Suite 130  
Boulder, CO 80301  
(303) 444-1101

- 1: Alleviating Jail Crowding; A Systems Perspective. Andy Hall, et al., Pretrial Services Resource Center, Washington, DC, 1985 (NCJRS - 099462).

This report discusses the range of options available to jail administration, prosecution, pretrial services, judiciary, defense, probation and parole for alleviating jail crowding, based upon interviews with criminal justice agencies in more than 50 jurisdictions. Among the programs and practices discussed are the use of field citation, recognizance release, monitoring detention cases, early screening of charges by the prosecutor, priority handling of detention cases, prompt bail setting, release screening at booking, supervised pretrial release, non-incarceration sentencing options, and early appointment of defense counsel. The report presents guidelines for, collecting and analyzing inmate population data to identify the causes and develop solutions to the jail crowding problem.

- 2: The Implementation of Effective Case Processing for Crowded Jails. A Manual for Prosecutors. Jolanta J. Perlstein and D. Alan Henry, Pretrial Services Resource Center, Washington, DC, 1986 (NCJRS- 099464).

This manual describes prosecutorial policies and procedures that have helped to reduce jail crowding in 18 jurisdictions. Among the strategies discussed are warrant and charge screening, intake screening for pre-trial diversion, plea bargaining, vertical case management, charge consolidation, accelerated case calendars, and support for incarceration alternatives at sentencing.

- 3: Dealing Effectively with Crowded Jails. A Manual for Judges. Jolanta J. Perlstein and D. Alan Henry, Pretrial Services Resource Center, Washington, DC, 1986 (NCJRS - 099463).

This manual describes judicial case processing activities that impact jail admissions and length of stay. Among the topics discussed are summonses versus arrest warrants, pretrial release options, appointment of counsel, pleas and continuances, court delay reduction, and sentencing alternatives to jail.

- 4: Jail Overcrowding Identifying Causes and Planning for Solutions. Walter H. Busher, American Justice Institute, Sacramento, CA, 1983 (NCJRS - 088340).

This document describes a methodology for dealing with jail overcrowding through comprehensive planning based upon sound data, and provides a step-by-step guide for applying the methodology. This approach recognizes that local criminal justice agencies have broad discretion in deciding which arrestees are detained in custody and the length of detention. The methodology presented stresses a concerted approach to jail overcrowding by all local criminal justice agencies based upon (1) forming a jail population management board, (2) producing a system decision flow chart, (3) collecting and analyzing reliable inmate population data to identify causes and suggest alternative policies and procedures, and (4) developing and implementing a jail capacity management plan.

- 5: Jail Overcrowding: Guide to Data Collection and Analysis. Jerome R. Bush, American Justice Institute, Sacramento, CA, 1982 (NCJRS - 087509).

This guide explains how local jurisdictions can plan and implement inmate population data collection and analysis programs to study, the causes of jail crowding and suggest optional courses of action to better manage admissions and length of stay. Particular emphasis is placed upon analyzing the use of pretrial release alternatives by law enforcement agencies, jail administration, prosecutor, and the courts in a jurisdiction experiencing jail overcrowding.

- 6: Pretrial Release Program Options. Andy Hall, et al., Pretrial Services Resource Center, Washington, DC, 1984 (NCJRS - 094612).

The focus of this report is pretrial release programs; specifically, the advantages and disadvantages of specific program structures, operations, and policy decisions related to efficient pretrial case management. It is meant to serve as a basic reference tool for

local criminal officials and others involved in pretrial release program development. An analysis of factors effecting pretrial services considers legal authority for pretrial release, criminal court structure, community resources, and existing judicial and non-judicial options.

**7: Jails: Intergovernmental Dimensions of a Local Problem. Advisory Commission on Intergovernmental Relations, Washington, DC, 1984 (NCJRS).**

This report focuses upon pre- and post-trial alternatives to jail incarceration, jail standards and inspections, community corrections, and the increasing role of the federal judiciary in local jail intervention and regulation.

**8: Jail Overcrowding: Alternatives to Pretrial Detention. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Washington, DC, 1985 (NCJRS - 098251).**

This program brief synthesizes the results of research and demonstration projects aimed at reducing jail overcrowding and provides guidance for jurisdictions implementing a program of proven effectiveness with funding assistance provided by the Justice Act of 1984.

**9: Jail Population Checklist: An Assessment Survey. National Institute of Corrections, Jail Center, Boulder, CO, 1984 (NIC Jail Center, 1790 30th Street, Suite 440, Boulder, CO 80301).**

This report (checklist) provides a list of questions which are relevant to possible reasons for jail crowding in a jurisdiction. Once identified, these issues provide a basis for the development of site-specific solutions. The survey is divided into state and local level issues. Local level issues address policies and procedures by the police, prosecutor, public defender, probation and parole, pretrial services, judiciary, sheriff, and jail administrator that can impact the jail population.

**10: The Drunk Driver and Jail (Volume 1-5). U.S. Department of Transportation, National Highway Traffic Safety Administration with the American Correctional Association, 400 Seventh Street, S.W., Washington, DC 20590, 1986 (DOT-HS-806-761-765).**

Volume 2, Alternatives to Jail, discusses the various non-incarceration sanctions that can be applied to the convicted drunk driver, i.e., community service, victim restitution, probation, license suspension, and treatment-educational programs. Volume 3, Options for

Expanding Residential Facilities, addresses the cost of conventional construction, building modular prefabricated units, constructing non-secure work release centers, converting existing facilities, and contracting for work release facilities. Volume 4, Step-by-Step to a Comprehensive DWI Corrections Program, considers alternatives to construction, funding correctional programs, and developing additional facilities.

- 11: **Handbook on Community Service Restitution.** Glenn Cooper, et al., Social Systems Research and Evaluation Division, Denver Research Institute, University of Denver, Denver, CO 80208, 1981.

This handbook on community service restitution, as a sentencing alternative, was produced as a by-product of the evaluation of the LEAA-funded Community Service Restitution Program. The information and suggestions are based upon observations and assessments of seven pilot community service projects. The handbook provides basic information to persons considering the development of a community service program alternative and offers suggestions and strategies to those already involved in project operations.

- 12: **Jail Litigation Status Report, 1985.** The American Civil Liberties Union Foundation, National Jail Project, 1616 P Street, N.W., Washington, DC 20036, 1985 (NCJRS-100158).

This survey provides a comprehensive view of the nature and scope of jail litigation on a state-by-state basis from 1970 to 1984, and the ways in which counties, states, municipalities, and courts have responded to the various problems relating to jail conditions and inmate rights. Included among the issues addressed are overcrowding, personal safety; classification, due process, privacy, staffing, recreation, search-seizure, and inmate medical services.

- 13: **Judicial Intervention in the Jail Setting - Liability of Jail Administrators.** T.H. Mathews, University of South Carolina, 1984 (NCJRS - 100072).

This study analyzes case law to determine the nature and impact of court intervention in jail management. Policy implications are drawn for jail staff training, jail standards, and jail accreditation.

- 14: **Effectiveness of Supervised Pretrial Release.** James Austin, et al., National Council on Crime and Delinquency, 1985 (NCJRS - 099750).

This evaluation of programs in three cities was designed to test whether defendants denied initial pretrial release can later be screened and released under close supervision without adversely affecting arrest and failure to appear rates. The results were generally positive - approximately 90 percent of the defendants under supervised release were not re-arrested nor failed to appear. The report presents suggestions for the structure and operation of a model supervised pretrial release program by local jurisdictions.

- 15: **Will the Real Alternatives Please Stand Up?** E. Smith, New York University Review of Law and Social Change, Volume 12, Number 1, p. 171-197, 1983-84 (NCJRS - 097024).

This article considers the extent to which alternative sentencing can relieve jail and prison crowding. The use of such sentencing alternatives as fines, probation, conditional discharge, and community service is examined. Attention is also given to intensive supervision and the benefits of employment and educational elements in supervision programs.

- 16: **Pretrial Release Programming - Issues and Trends.** C.W. Eskridge, Clark Boardman Co., 435 Hudson Street, New York, NY 10014, 1983 (NCJRS - 094837).

This source book reviews facts and issues related to pretrial release programs, covering program organization and operations, evaluation measures, cost analysis, and prediction. The volume describes four modes of pretrial release: release on recognizance, reporting release, supervised release, and third party release. Also examined are funding, operational philosophies, pretrial release exclusionary criteria, operational procedures, and legal issues. One case study describes the pretrial release programs in Santa Clara County, California.

- 17: **Procedures and Programs.** California Board of Corrections, Sacramento, CA.

These guidelines, designed to be used in conjunction with the 1980 Minimum Standards for Local Detention Facilities, were written as a resource for jail administrators and staff in California. The guidelines give general instructions; describe inspection and application of standards; and focus on training, personnel, and management. Other sections pertain to records and public information, classification and segregation, and inmate programs, activities, and discipline.



**18: Relationship of Jail Capacity to Jail Overcrowding. L. Smith, National Institute of Justice, Washington, DC, 1982 (NCJRS - 084402).**

Several studies have shown that the decision to incarcerate or release an offender results from a series of discretionary actions by individual criminal justice officials in the absence of a clear overall correctional policy. The overall effect of these individual decisions is for the incarceration rate to increase until the facility is crowded and then to remain at the overcrowded level. Constructing new space is extremely expensive and produces new crowding problems. The American Prisons and Jails Study recommends that a rated capacity be assigned to a county's correctional institutions and procedures be adopted for accelerated release when a facility nears capacity. These procedures should provide for automatic selective release based upon criteria approved by the local criminal justice agencies, e.g., inmates with the lowest bail (least serious offense) or shortest time to serve are released as new inmates enter the general population.

**19: Ceilings, Lids, Limits, and Caps. M.M. Bell, National Institute of Justice, Washington, DC 1981 (NCJRS - 082460).**

A survey of 14 jails with self-imposed or judicially mandated population ceilings showed that all followed a consistent pattern. If there was more than one facility in the system, inmates were transferred; jail construction projects were begun; diversionary programs initiated; and a contingency plan emerged. Instead of new construction, some jail systems preferred to spread into satellites, including smaller more residential facilities. If pretrial diversion was less than sufficient to reduce the population to the required level, the next step was reducing the number of sentenced inmates, including those in another facility whose absence would relieve space for pretrial inmates. If these strategies prove to be inadequate, the next step involved "state" cases, persons scheduled for transfer to the state or on state holds for parole or probation revocation hearings. Some jurisdictions also made efforts to implement court delay reduction programs for detention cases.

**20. Alternatives to Prosecution: A Review of Recent Research Findings. Donald E. Pryor and Walter F. Smith, Pretrial Services Resource Center, 918 F Street, N.W., Washington, DC 20004, 1983.**

This report presents the findings of a nationwide evaluation of pretrial diversion and dispute resolution programs.

21. **Legal Issues and Jail Operations.** Lynn J. Lund and Gary W. DeLand, NIC Resource Center Conference Proceedings, North Haven, CT, 1980 (NIC National Information Center, 1790 30th Street, Boulder, CO).

Inmate rights under the 4th, 5th, 6th, 8th, and 14th Amendments are discussed. Also discussed are inmate rights regarding legal counsel, access to the courts, recreation, law library, mail, labor unions, visitation, religious services, unreasonable search and seizure, medical care, freedom from physical abuse, telephone usage, adequate diet, sanitary living conditions, due process in disciplinary hearings, classification, and segregation. Case law is cited for each factor listed above.

22. **Removing the Chronically Mentally Ill from Jail.** National Coalition for Jail Reform, Washington, DC, 1984.

This report presents case studies of collaboration between local criminal justice agencies and mental health systems in removing the mentally ill from jail.

23. **Alternatives to Incarceration -- A Community Planning Workbook.** Ellen J. Mowbray and Arlen S. Morris, Aurora Associates, Inc., Washington, DC, 1982.

This workbook describes a five-step procedure for planning and implementing an alternatives to incarceration program in a local jurisdiction: (1) Establish a planning group, (2) Identify issues and goals, (3) Gather inmate data, (4) Analyze the data, and (5) Develop an action plan specifying an implementation schedule. Case studies are cited as models of program planning and implementation.

24. **The Dilemma of Diversion -- Resource Materials on Adult Pretrial Intervention Programs.** Joan Mullen, National Institute of Justice, 633 Indiana Avenue, N.W., Washington, DC, 20004, 1983.

In this report the author discusses policy issues related to diversion programs and provides case histories of diversion programs in three communities.

25. **Alternatives to Incarceration: An Annotated Bibliography 1978-1980.** Thomas Christian, National Center for State Courts, Southern Regional Office, 1600 Tullie Circle, N.E., Atlanta, GA 30329, 1980.

This document contains annotated bibliographic references to literature (reports, studies, and articles) made available between 1978 and 1980 in the areas of (1) alternatives to incarceration generally, (2) alternatives involving some incarceration - short sentences with programming, shock probation, work release, (3) community-based corrections-

monetary restitution, home arrest, residential programs, (4) special treatment programs-- chemical dependency, therapeutic communities, (5) diversion -- alternatives to prosecution, pre- and post-trial diversion, and (6) the use of fines as a sentencing alternative.

- 26. Alternatives to Institutionalization: A Definitive Bibliography. James R. Brantley, National Criminal Justice Reference Service, Box 6000 Department F, Rockville, MD 20850, 1979.**

This annotated bibliography covers all of the literature in the National Criminal Justice Reference Service data base through 1978 on the broad subject of alternatives to institutionalization. The more than 2,200 entries describe the various alternatives that have been proposed, implemented, and evaluated over the years. The material presented pertains to such diverse alternatives as bail, release on recognizance, pre-release centers, work release programs, restitution, weekend sentencing, community service sentences, probation, and parole.

- 27. Instead of Jail: Pre- and Post-trial Alternatives to Jail Incarceration. John J. Galvin, et al., American Justice Institute, Sacramento, CA 95825, 1977.**

Volume 1: Issues and Programs in Brief; Volume 2: Alternatives to Pretrial Detention; Volume 3: Alternatives to Prosecution; Volume 4: Sentencing the Misdemeanant; Volume 5: Planning, Staffing, and Evaluating Alternative Programs.

- 28. Countywide Citation Release Programming: An Alternative Delivery System. Jerome A. Needle and Walter H. Busher, American Justice Institute, Sacramento, CA 95825, 1982.**

This report discusses the basic forms of citation release, release criteria, risks, resource savings, program development, implementation, and evaluation.

- 29. The Public Defender and Pretrial Detention. Elizabeth Gaynes, Pretrial Services Resource Center, 918 F Street, N.W., Washington, DC 20004, 1981.**

This article discusses the actions of the public defender which can increase or decrease the length of stay. Case studies, among them Santa Clara County, CA, are cited of efforts by the public defender's office to expedite case processing and pretrial release.

**30. The State of the Jails in California. Report #1: Overcrowding in the Jails. Carol A. Kizziah for the State of California Board of Corrections, 1984.**

This report contains a description of the magnitude of the state's jail population increases, a forecast of future jail populations, and an analysis of the sources and policy implications of these increases. Data for this report was obtained from county applications for jail construction funding under AB 3245 (1981) and Proposition 2 (1982); Bureau of Criminal Statistics; and Department of Finance.

**31. The State of the Jails in California. Report #2: Prisoner Flow and Release. Carol A. Kizziah for the State of California Board of Corrections, 1985.**

This report addresses policies and practices in California counties regarding prisoner release mechanisms and alternatives to incarceration. The data was gathered from county applications submitted for jail funding in 1983. The report presents statewide pretrial release patterns; pretrial release patterns by county for misdemeanor and felony charges; release procedures for unsentenced prisoners (public inebriate, mentally ill, clearing holds and warrants, expediting trials and case dispositions, and dealing with parole violators); and release procedures for sentenced prisoners (probation, work in lieu of jail, community service, county parole, and early release).

**32. The State of the Jails in California. Report #3: Impact of Convicted Drunken Drivers on Local Detention Systems. Carol A. Kizziah for the State of California Board of Corrections, 1986.**

This report summarizes the findings of a survey of each county by the Board of Corrections to identify the (1) number of convicted drunk drivers in jail, (2) type of housing space they occupy, (3) availability of in-custody treatment programs, and (4) alternatives to incarceration that are used for this population.

**33. Developing Comprehensive Activities Programming for Inmate Recreational Needs in County Jails. Delpaneaux v. Walabofra-Wills, Ph.D., Recreational Supervisor, Sacramento County Main Jail, 1983 (NIC National Information Center, 1790 30th Street, Boulder CO 80301).**

This report addresses the topics of conducting inmate recreational needs assessments, inmate behavior/attitude reorientation, staff effectiveness, expectations in recreational program design, equipment/program effectiveness, space, setting, and environment.

34. **National Institute of Justice Construction Bulletin.** Charles B. DeWitt, National Institute of Justice, Washington, DC, 1986.

This is a three part series on innovative approaches to jail and prison construction and financing. Bulletin #1: New Construction Methods for Correctional Facilities; Bulletin #2: Florida Sets Example with Use of Concrete Modules; Bulletin #3: Ohio's New Approach to Prison and Jail Financing.

35. **Jail-Based Inmate Programs: A Selected Bibliography.** Mark Levine and Marjorie Kravitz, National Criminal Justice Reference Service, Washington, DC, 1979.

This annotated bibliography for correctional administrators contains references to reports on jail-based inmate programs in the areas of jail management and minimum standards, broad-based program designs, as well as inmate health, education, and work release programs.

36. **Handbook for Special Masters (Judicial Version).** National Institute of Corrections, Washington, DC, 1983.

This handbook addresses the following five functional areas of the position of special court master: (1) functions of a special master, (2) powers of a master, (3) administration of the master's office, (4) relationships of the master with the court, counsel, and parties to the litigation, and (5) skills required of a special master.

**APPENDIX B**  
**INMATE LITIGATION AGAINST DETENTION FACILITIES**

## APPENDIX B

### INMATE LITIGATION AGAINST DETENTION FACILITIES

The following cases presents the results of jail overcrowding cases in other states. The California Board of Corrections maintains an excellent archive of relevant California cases in this area.

#### **Administrative Segregation**

Berch v. Stahl (Mecklenburg County Jail, North Carolina, 1974). The U.S. District Court ruled that known homosexuals and mentally disturbed inmates may be placed nonpunitively in solitary confinement but may be not denied regular jail privileges. Solitary confinement is not per se cruel and unusual.

#### **Classification and Separation**

Cordero v. Coughlin (Department of Corrections, New York, 1984). The U.S. District Court upheld the practice of segregating AIDS victims from the general population.

Grubbs v. Bradley (Tennessee Correctional System, 1982). The U.S. District Court held that while there is no constitutional right to a Classification system, where the absence of such a system substantially contributes to violence, such a system may be required.

Campbell v. Bergeron (West Baton Rouge Parish Jail, Louisiana, 1980). The U.S. District Court ruled that, while inmates have a right to personal safety, there is nothing inherent in the failure to separate sentenced and pretrial inmates which violates this right.

#### **Conditions of Confinement**

Inmates of Allegheny County Jail v. Wecht (Allegheny County Jail, Pennsylvania, 1985). The U.S. District Court ruled that police lockups cannot be used for extended periods of incarceration to alleviate jail overcrowding.

Alberti v. Heard (Harris County Jail, Texas, 1984). After establishing the lack of adequate inmate protection, the U.S. District Court ordered the sheriff to implement a new staffing plan for minimum prisoner surveillance.

Alberti v. Sheriff of Harris County (Harris County Jail, Texas, 1975). The U.S. District Court ruled that sufficient jail staff must be hired to provide one correctional officer for every twenty inmates. The jail staff must be increased when additional correctional officers are required for the safekeeping of inmates and the security of the jail.

Union County Jail Inmates v. Di Buono (Union County Jail, New Jersey, 1983). The U.S. Appeals Court held that inmates sleeping on mattresses was a constitutional violation. Double celling was offered as a solution and accepted by the court. Rhodes v. Chapman (Southern Ohio Correctional Facility, 1981). The U.S. Supreme Court by an 8 to 1

decision upheld the practice of double celling. Double celling does not violate the eighth amendment prohibiting cruel and unusual punishment.

Inmates of Allegheny County Jail v. Wecht (Allegheny County Jail, Pennsylvania, 1983). The U.S. District Court ruled that inmates must have adequate access to law library, recreational and exercise facilities.

Hoptowit v. Ray (Washington State Penitentiary, 1982). A lower court found that lighting was substandard, plumbing inadequate, fire prevention substandard, food service did not meet public health standards, there was evidence of vermin infestation, and the ventilation was inadequate. The U.S. Appeals Court ruled that in spite of this totality of conditions, an eighth amendment violation may not be based solely on a combination of conditions, if none of the conditions would be unconstitutional if viewed alone.

Vazquez v. Gray (Westchester County Jail, New York, 1981). The U.S. District Court found the jail in violation and ordered that no mattresses be placed on the floor, no more than two persons be confined to a cell, and the use of day rooms for housing for more than five days be prohibited.

Jones v. Diamond (Jackson County Jail, Mississippi, 1981). The U.S. Appeals Court found the jail in violation because of racial segregation, inadequate diet, failure to control and segregate violent prisoners, and censorship of mail.

Duran v. Elrod (Cook County Jail, Illinois, 1985). As part of a consent agreement concerning crowding, Cook County agreed to halt double celling. Due to worsening overcrowding and the mandatory release of detainees who became fugitives or were rearrested, the county appealed for relief from the consent agreement. The U.S. Appeals Court ruled that double bunking in sixty-four square foot cells is clearly constitutional.

Cleveland v. Goin (Clatsop County Jail, Oregon, 1985). An inmate was transferred to a jail in another county because, according to the sheriff, his jail was overcrowded. After examining jail records, the court determined that jail occupancy had not exceeded the limit set by federal court. As a result, the prisoner was ordered returned and housed in the jail for his upcoming trial.

Glynn v. Auger (Iowa Men's Reformatory, 1982). A U.S. Appeals Court ruled that double celling does not constitute cruel and unusual punishment. In Rhodes v. Chapman (Southern Ohio Correctional Facility, 1981) the U.S. Supreme Court upheld double celling.

## Facilities

Miller v. Carson (Duval County Jail, Florida, 1982). County officials were found in contempt for exceeding the population limit of the jail both individually and in their official capacity. Mobil County Jail Inmates v. Purvis (Mobile County Jail, Alabama, 1982). The U.S. District Court found county officials in contempt for failing to comply with the requirements of a court order to reduce the jail population, and established a daily fine of \$5,000 for each day the defendants were out of compliance with the order.



**APPENDIX C**  
**CONTACT PERSONS FOR JAIL MANAGEMENT STRATEGIES**

## APPENDIX C

### CONTACT PERSONS FOR JAIL MANAGEMENT STRATEGIES

#### Alameda County

Inmate Housing Inventory:  
D.R. Bricknell, Chief  
Detention and Corrections Division  
(4 15) 828-5400

#### El Dorado County

Facility Maintenance, Food Services:  
Lieutenant James Roloff, Jail Commander  
(9 16) 626-2460

#### Kern County

Medical Services:  
Lieutenant Frank Williams  
(805) 861-2053

#### Lake County

Sanitation:  
Lieutenant Jeff Markham, Jail Commander  
(707) 263-2331

#### Lassen County

Medical Services:  
Sergeant Thomas Holybee, Jail Commander  
(916) 257-6121

#### Los Angeles County

Inmate Housing:  
Deputy Joseph Gagliardi  
Operations and Planning  
(213) 974-5081

Staffing:  
Chief James Painter  
Los Angeles County Central Jail  
(213) 974-4901

#### Los Angeles County, continued

Safety:  
Jake Katz  
Operations Support  
(213) 974-4901

#### Madera County

Visitation, Medical Services, Inmate  
Programs, Grievances:  
Lieutenant Peter Kraft, Jail Commander  
(209) 675-7802

#### Placer County

Recreation:  
Captain Marvin Jacinto, Jail Commander  
(916) 823-4561

#### Riverside County

Inmate Housing, Food Services, Trans-  
portation, Discipline:  
Lieutenant David Ridgway  
Corrections Support Office  
(7 14) 787-2768

Visitation, Recreation, Storage:  
Captain Dan Spain, Jail Commander  
(7 14) 787-2082

#### San Bernardino County

Inmate Housing, Visitation:  
Lieutenant Hansen, Jail Commander  
(714) 387-2904

#### Sacramento County

Food Services:  
Captain Dennis Hanks, Jail Commander  
(916) 440-5188

**San Diego County**

Visitation, Medical Services, Classification, Safety, Facility Maintenance:  
Captain C.J. Roache, Jail Commander  
(619) 236-2930

**San Francisco City and County**

Medical Services:  
Captain Carl Koehler, Jail Commander  
(415) 553-9504

**San Joaquin County**

Recreation, Safety, Sanitation, Facility Maintenance:  
Captain Richard Sealy, Jail Commander  
(209) 982-1870

**San Luis Obispo County**

Recreation:  
Lieutenant Crout, Jail Administrator  
(805) 549-4605

**Santa Clara County**

Inmate Housing, Food Services, Recreation, Staffing:  
Sergeant Don Clark  
(408) 299-3737

**Stanislaus County**

Recreation:  
Lieutenant Robert Wilson, Jail Commander  
(209) 571-6439

**Ventura County**

Inmate Programs Inventory:  
Lieutenant Ken Kipp  
Ventura County Main Jail  
(805) 654-2307

Staffing:  
Assistant Sheriff Dick Bryce  
(805) 654-2383

**Yolo County**

Staffing, Safety:  
Lieutenant Stan Rommel, Jail Commander  
(916) 666-8874